

# **FACT SHEET**

## **Advance Notice of Proposed Rulemaking: Regulating Greenhouse Gas Emissions under the Clean Air Act**

### **ACTION**

- On July 11, 2008, the U.S. Environmental Protection Agency (EPA) released an Advance Notice of Proposed Rulemaking (ANPR) inviting public comment on the benefits and ramifications of regulating greenhouse gases (GHGs) under the Clean Air Act (CAA).
- The ANPR is one of the steps EPA has taken in response to the U.S. Supreme Court's decision in *Massachusetts v. EPA*. The Court found that the Clean Air Act (CAA) authorizes EPA to regulate tailpipe greenhouse gas emissions if EPA determines they cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare.
- The ANPR reflects the complexity and magnitude of the question of whether and how greenhouse gases could be effectively controlled under the Clean Air Act.
- The document summarizes much of EPA's work and lays out concerns raised by other federal agencies during their review of this work. EPA is publishing this notice at this time because it is impossible to simultaneously address all the agencies' issues and respond to the agency's legal obligations in a timely manner.
- Key Issues for Discussion and Comment in the ANPR:
  - Descriptions of key provisions and programs in the CAA, and advantages and disadvantages of regulating GHGs under those provisions
  - How a decision to regulate GHG emissions under one section of the CAA could or would lead to regulation of GHG emissions under other sections of the Act, including sections establishing permitting requirements for major stationary sources of air pollutants
  - Issues relevant for Congress to consider for possible future climate legislation and the potential for overlap between future legislation and regulation under the existing CAA
  - Scientific information relevant to, and the issues raised by, an endangerment analysis
  - Information regarding potential regulatory approaches and technologies for reducing GHG emissions
- EPA will accept public comment on the ANPR for 120 days following publication in the Federal Register.

### **BACKGROUND**

- In April 2007, the Supreme Court concluded that GHGs meet the CAA definition of “air pollutant,” and that section 202(a)(1) of the CAA therefore authorizes regulation of GHGs subject to an Agency determination that GHG emissions from new motor vehicles cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. This determination is known as the endangerment test.
- A decision to regulate GHG emissions under one section of the CAA could or would lead to regulation of GHG emissions under other sections of the Act, including sections establishing permitting requirements for major stationary sources of air pollutants.
- On May 14, 2007, in response to the Supreme Court’s decision, the President issued an Executive Order to control greenhouse gas emissions from motor vehicles, nonroad vehicles, and nonroad engines.
  - EPA began work with Departments of Energy, Agriculture, and Transportation (DOT) to develop new regulations to cut GHG emissions from new motor vehicles and their fuels.
  - EPA had planned to propose these GHG rules by the end of 2007, but this did not occur. A major factor contributing to this outcome was Congress’ approval and the President’s signature into law of the Energy Independence and Security Act (EISA) on December 19, 2007.
- With the enactment of the EISA on December 19, 2007, the policy context for the response to the Supreme Court decision changed.
  - DOT received new authority and a mandate from Congress to tighten Corporate Average Fuel Economy standards in coordination with EPA. EPA will consider this change in evaluating CAA new motor vehicle standards.
  - EPA received new authority and a mandate from Congress to strengthen the existing CAA renewable fuels standard.

### **How to Comment**

- Comments should be identified by the following Docket ID Number: EPA-HQ-OAR-2008-0318
- Comments should be submitted by one of the following method
  - [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
  - Email: [a-and-rDocket@epa.gov](mailto:a-and-rDocket@epa.gov)
  - Fax: 202-566-9744
  - Mail: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503.

- Hand Delivery: EPA Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW, Washington DC, 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

## **FOR MORE INFORMATION**

To download the ANPR on EPA's website, go to <http://epa.gov/climatechange/anpr.html>

Further information on this action and other background information is available at:  
<http://epa.gov/climatechange/anpr.html>

For more information on GHG emissions from transportation, go to:  
<http://epa.gov/otaq/climate/>